

Serial No. 10/643,660
60246-229; 8748

REMARKS

Claims 27-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boah (US 4,953,511) in view of Keneipp Jr. (US 3,307,996). The Examiner admits that Boah does not disclose a film made of polyester, polyetherimide, polyethersulfone, polysulfone or polyimide. That Examiner states that Keneipp discloses employing polyethylene, polypropylene or polyester as an anti-corrosive coating material for a steel conduit subjected to a corrosive environment to prevent the steel conduit from corrosion due to a corrosive aqueous fluid, and therefore the claimed invention is obvious. Applicant respectfully disagrees.

Keneipp reference is not analogous art to Boah or to Applicant's invention. "In order to rely on a reference a basis for rejection of an applicant's invention, the reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned." In re Oetiker, 977 F.2d 1443, 1446, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992). The Examiner admits that Keneipp is not the same field of endeavor as Boah. Keneipp is also not reasonably pertinent to the particular problem that the Applicant has solved. The Examiner states that both Keneipp and Boah are analogous art because both deal with a corrosion problem with a corrosive fluid and it would be obvious to use Keneipp's teaching in Boah.

A reference is reasonably pertinent if, even though it may be in a different field of endeavor, it logically would have commended itself to an inventor's attention in considering his problem because of the matter with which it deals. In re Clay, 966 F. 2d 656, 659, 23 USPQ2d 1058, 1061 (Fed. Cir. 1992). The Examiner states that the heat exchanger of Boah and Keneipp are in analogous art in that they both have to deal with a corrosion problems. However, Keneipp is clearly not within the field of heat exchangers and therefore would not logically commend itself to the attention of an inventor seeking to solve problems present in heat exchangers. Keneipp deals with the problem of preventing corrosion in an oil pipeline that transports oil, which is far removed from Applicant's problem relating to exchanging heat. One seeking to solve problems in heat exchanger would look to references that solves problems in exchanging heat, not preventing corrosion.

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There is also no disclosure, suggestion or teaching in either reference in using a melted polymer to form a film as claimed. The Examiner states that these are product by process claims that are limited by the product itself. The Examiner continues that the heat exchanger as claimed is the same as or obvious from the heat exchanger of Boah. Applicant respectfully disagrees. The claimed invention requires a melted polymer that forms a film on a heat exchanger. Boah does not disclose, suggest or teach that the polypropylene layer is applied to the blank 61 as a melted polymer as claimed. The claims recite a material applied in a first state (a melted state) that form a second state (a film). These are structural differences. Keneipp also does not disclose a film formed from a melted polymer applied directly to the pipeline 2. Keneipp discloses a tubular liner 18 that is forced into a pipeline 2 to line the pipeline 2. The tubular liner 18 is therefore solid and cannot be applied to the pipeline 2 as a melted polymer. The claimed invention is not obvious, and Applicant respectfully requests that the rejection be withdrawn.

The Examiner states on page 3 of the office action that original claim 16 listed the materials as a Markush group, and therefore it appears that the effect of the heat exchanger surface is equally achieved by the use of any material in the Markush group. However, the fact that materials belong to a class does not mean that the materials are obvious equivalents of each other. For example, in the Background of the Invention section, Applicant stated in paragraph 4 that polypropylene has several drawbacks, and the film of the present invention overcomes these drawbacks. The Examiner questions the relevance of this argument. This paragraph shows that the materials are not an obvious equivalent of each other. The claimed invention is not obvious, and Applicant respectfully requests that the rejection be withdrawn.

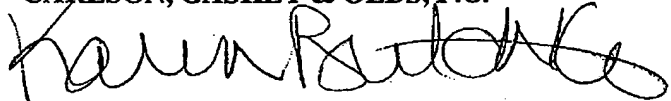
Claims 36-43 are not obvious because neither reference discloses, suggests or teaches a heat exchanger component including a film formed from a melted polymer that is one of polyetherimide, polyethersulfone, polysulfone and polyimide. Neither Boah nor Keneipp teaches employing polyetherimide, polyethersulfone, polysulfone and polyimide, and therefore the references together do not disclose, suggest or teach employing polyetherimide, polyethersulfone, polysulfone or polyimide as a film on a metal surface as claimed. Therefore, the combination of the references cannot disclose, suggest or teach the claimed invention.

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Thus, claims 27-43 are in condition for allowance. No additional fees are seen to be required. If any additional fees are due, however, the Commissioner is authorized to charge Deposit Account No. 50-1482, in the name of Carlson, Gaskey & Olds, P.C., for any additional fees or credit the account for any overpayment. Therefore, favorable reconsideration and allowance of this application is respectfully requested.

Respectfully Submitted,

CARLSON, GASKEY & OLDS, P.C.

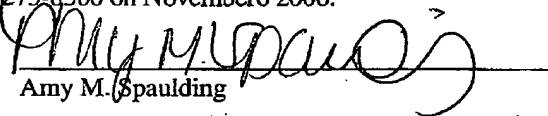


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CERTIFICATE OF FACSIMILE

I hereby certify that this Request for Reconsideration is being facsimile transmitted to the United States Patent and Trademark Office, 571-273-8300 on November 6, 2006.



Amy M. Spaulding